

csm
IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2552 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

=====

MANIAR COTTON SEEDS EXPORT INDUSTRIES PVT LTD

Versus

GIDC

Appearance:

MR YOGESH S LAKHANI for Petitioner

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 01/03/99

ORAL JUDGEMENT

This petition is directed against the order dated 16.2.1995 at Annexure 'A' passed by the Regional Manager, G.I.D.C., Surendranagar in exercise of powers conferred by section 7 of the Gujarat Eviction of Public Premises (Unauthorised Occupants) Act [hereinafter referred to as the Act] and under Rule 6 of GIDC Rules, which has been confirmed in Civil Appeal No. 30/95 by learned Assistant Judge, Surendranagar on 18.12.1996.

The main ground urged by the learned advocate is that opportunity of hearing was not given, and how the figures were arrived at, is not known to the petitioner, and, therefore, the order must be held to be bad.

From the order at Annexure 'A', it transpires that many notices were given and thereafter final notice was given on 3.8.1994 calling upon the petitioner as to why the amount should not be recovered after adjusting the amount which was paid by the petitioner and why the amount should not be recovered as arrears of land revenue. Despite service of notice, the petitioner has not shown any cause as to why the order should not be

passed as mentioned in the show cause notice. It also appears that earlier proceedings were initiated and an appeal was preferred and before the appellate forum also, the party was seeking time on one or the other grounds on several occasions. Ultimately it transpires that one L.N. Maniar appeared, who has raised a technical objection about competency of the authority, which was ultimately decided against the petitioner, and, thereafter appeal was preferred, where the learned Assistant Judge held that the authority passing the order was competent under the Act.

As the petitioner has not shown any cause, the order came to be passed which was challenged by preferring Civil Appeal No. 30 of 1995.

From the record it transpires that after the notice dated 3.8.1994 calling upon the petitioner to remain present on 30th August 1994 at 11.30, by telegram a request was made to adjourn the matter. Again, on 12.9.1994 further adjournment was sought. Thereafter, further adjournments were granted to the petitioner. Lastly, on 24.10.1994, objections were filed. It is required to be noted that from August 1978 instalments were outstanding. The outstanding amount as well as interest on it was claimed by the Corporation respondent No.1. Whatever the credit was required to be given, has been given. From the conduct, it appears that the petitioner is interested in delaying the proceedings one way or the other. A simple question was put as to according to the petitioner, what is the amount outstanding, to which learned advocate for the petitioner replied that he is not aware of the figure and therefore he cannot give any answer. Learned Assistant Judge has also pointed out that sufficient time was given and an opportunity of being heard was also given, and the authority in strict compliance with the provisions, has passed the order and the learned Assistant Judge has not thought it fit to interfere with the order.

This being a petition under Article 227 of the Constitution against the order passed by the appellate authority, it would not be just and proper for this Court to interfere with the findings of fact. Hence this petition is summarily dismissed.

csm./ -----